

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SANDY VALLEY WATER DISTRICT)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 96-161
)	
CITY OF PRESTONSBURG AND)	
PRESTONBURG CITY'S UTILITY)	
COMMISSION)	
)	
DEFENDANTS)	

O R D E R

The parties have jointly moved for Commission approval of a settlement agreement which resolves all outstanding issues in this matter. Having reviewed the Settlement Agreement and finding that it affords a reasonable resolution of this matter, the Commission grants the joint motion, approves the Settlement Agreement, and dismisses this proceeding.

Sandy Valley Water District ("Sandy Valley") is a water district organized pursuant to KRS Chapter 74. It provides retail water service to approximately 1,947 customers in Floyd and Pike counties, Kentucky. Sandy Valley has no water production facilities but purchases its total water requirements from the Prestonsburg City's Utilities Commission ("PCUC") - a municipal utility.

On August 1, 1996, Sandy Valley filed with the Commission a complaint against PCUC in which it alleged that PCUC had increased its rates on two occasions in a

manner contrary to the terms of the parties' Water Purchase Contract and that the lawful rate that PCUC could charge for water service was \$1.35 per 1,000 gallons, not PCUC's present rate of \$2.12 per 1,000 gallons. Sandy Valley requested that the Commission reestablish PCUC's rate at \$1.35 per 1,000 gallons or set a new rate for PCUC. It further requested relief from any deficiency that PCUC alleged that the water district owed.¹

As a result of settlement negotiations lasting several months, the parties on March 18, 1998, submitted a Settlement Agreement for Commission review. The Settlement Agreement resolves the parties' dispute over rate and service issues and replaces the parties' current Water Purchase Contract that was executed in 1981. The parties agree to recognize PCUC's current rates as the appropriate rates for water service to Sandy Valley. PCUC agrees to not modify these rates prior to October 1, 1998. Under the Settlement Agreement, PCUC agrees to increase the maximum quantities which Sandy Valley may purchase monthly from 3,000,000 gallons to 6,000,000 gallons. The Settlement Agreement further establishes a daily maximum for Sandy Valley and provides for an "overrun rate" should Sandy Valley exceed 5 percent of the daily contract maximum volume. The Settlement Agreement discusses in greater detail the parties' relationship and their responsibilities and rights arising out of their contractual relationship.

¹ In May, 1993, PCUC notified Sandy Valley that its rate would increase from \$1.77 per 1,000 gallons to \$2.12 per 1,000 gallons. In August 1994, PCUC began billing Sandy Valley at this new rate. Sandy Valley refused to pay the increased rate and continued making payments to PCUC based upon a rate of \$1.77 per 1,000 gallons.

Having reviewed the Settlement Agreement and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement strikes a reasonable compromise between the parties, more clearly defines their relationship, is reasonable and in the public interest and should be accepted. The Commission further finds that, consistent with KRS 278.160(2)² and Administrative Regulation 807 KAR 5:011, Section 13,³ PCUC should file a copy of the Settlement Agreement with the Commission.⁴

IT IS THEREFORE ORDERED that:

1. The Joint Motion is granted.
2. The parties' Settlement Agreement is approved.
3. Sandy Valley's Complaint is dismissed with prejudice.

² KRS 278.160(2) states:

No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

³ Administrative Regulation 807 KAR 5:011, Section 13, states:

Every utility shall file true copies of all special contracts entered into governing utility service which set out rates, charges or conditions of service not included in its general tariff. The provisions of this regulation applicable to tariffs containing rates, rules and regulations, and general agreements, shall also apply to the rates and schedules set out in said special contracts, so far as practicable.

⁴ The Settlement Agreement contains provisions which specify the rates which PCUC must charge Sandy Valley for water service and several conditions under which such service must be provided. Under the provisions of Administrative Regulation 807 KAR 5:011, Section 13, it is a "special contract" and must be separately filed with the Commission as part of PCUC's filed rate schedules.

4. PCUC shall file a copy of the Settlement Agreement within 30 days of the date of this Order.

Done at Frankfort, Kentucky, this 9th day of April, 1998.

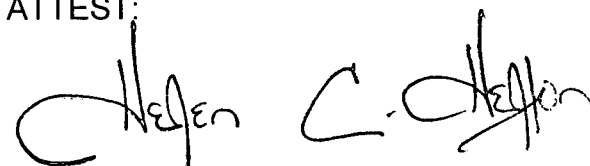
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director